

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554**

In the Matter of)	
)	
Review of the Commission's)	MM Docket No. 00-39
Rules and Policies)	
Affecting the Conversion)	
to Digital Television)	
)	

**COMMENTS OF
LENFEST BROADCASTING, LLC**

Lenfest Broadcasting, LLC (“Lenfest”), the proposed assignee of WWAC-TV, Atlantic City, New Jersey,¹ hereby submits its comments in response to the Notice of Proposed Rule Making (“NPRM”) released by the Commission on March 8, 2000 in the above-captioned proceeding to solicit comments concerning the progress of the conversion of our nation’s television system from analog technology to digital television (“DTV”).² In soliciting comments, the FCC is following through on its promise to conduct a periodic review every two years until the cessation of analog service to ensure a smooth and rapid transition to digital broadcasting.³ Although the NPRM notes that

¹ See FCC File No. BALCT-20000424AAT.

² See Review of the Commission’s Rules and Policies Affecting the Conversion to Digital Television, Notice of Proposed Rule Making, MM Docket No. 00-39, FCC 00-83 (rel. Mar. 8, 2000) (“NPRM”).

³ See Fifth Report and Order, 12 FCC Rcd 12809, 12856 (1997), on recon., Memorandum Opinion and Order on Reconsideration of the Fifth Report and Order, 13 FCC Rcd 6860, on further recon., Second Memorandum Opinion and Order on Reconsideration of the Fifth and Sixth Report and Orders, 14 FCC Rcd 1348 (1998),

much progress has been made, the Commission nevertheless invites comment on a number of issues that the FCC believes “require resolution to ensure that this progress continues and that potential sources of delay are eliminated.”⁴ Among other issues, the Commission seeks comment on whether it should establish an NTSC replication requirement for DTV stations, and/or require that a DTV station’s principal community be served by a stronger signal level than specified for the general DTV service contour.

I. INTRODUCTION

As noted above, Lenfest has entered into an agreement to purchase WWAC-TV and an application for consent to the assignment of the WWAC-TV license has been filed with the Commission. The current WWAC-TV licensee, WWAC, Inc., has proposed a WWAC-DT transmission site further from Atlantic City than the current WWAC-TV transmission site. This proposed facility relocation will allow the station to replicate nearly all of its NTSC service area and population.⁵ At the same time, the proposed WWAC-DT facility will provide new service to viewers to the north. The provision of service to additional viewers is clearly in the public interest, represents a more efficient use of the broadcast spectrum, and could provide much-needed additional capital to assist

recon. dismissed, DA 99-1361, released July 12, 1999, recon. dismissed, FCC 00-59,

⁴ NPRM at para. 1.

⁵ The 41 dBu f(50,90) contour of the proposed WWAC-DT facilities would achieve 99.9% replication with respect to the population within the current WWAC-TV NTSC Grade B signal contour. Moreover, the 41 dBu f(50,90) contour of the proposed WWAC-DT facilities would achieve 99.8% replication with respect to the land area (excludes water area) within the current WWAC-TV NTSC Grade B signal contour. When the total area (including water areas with no population) within the WWAC-TV Grade B signal contour is considered, the replication between the proposed WWAC-DT facility and the current WWAC-TV NTSC facility is 91%.

in funding the station's conversion to digital broadcasting. The proposed WWAC-DT transmission site was carefully engineered to achieve the twin objectives of NTSC replication and the provision of service to new viewers while complying with the Commission's requirement that a DTV station's community of license be wholly encompassed by the station's general DTV service contour.

As set forth below, Lenfest believes that the proposed establishment of a stronger DTV signal level requirement for a digital television station's community of license, akin to an NTSC "city-grade" signal, is unnecessary so long as the DTV facility will suitably replicate the NTSC facility in terms of area and population served. Additionally, it would be inequitable suddenly to impose a city-grade coverage requirement this far into the transition process, after numerous broadcasters have invested significant capital in planning DTV facilities in reliance on the Commission's current rules. Should the Commission nonetheless decide to adopt the proposed stronger signal coverage requirement for a DTV station's principal community, it should exempt from any such requirement those DTV stations that replicate at least 90% of their NTSC Grade B service areas and populations. It should also postpone the effective date of any such requirement until the actual end of the DTV transition on December 31, 2006 or beyond, depending upon the level of DTV service in a particular market.

II. DISCUSSION

A. The Commission Should Not Penalize Broadcasters Who Have Expended Significant Resources In Reliance Upon the Commission's Current DTV Signal Coverage Requirements

The Commission's existing DTV rules require that a station's general DTV service contour encompass its community of license.⁶ This is because, as the Commission notes in the NPRM, "there are virtually no gradations in picture quality that are dependent on signal strength. The [DTV] signal must reach a certain minimum threshold for a picture to occur; it does not matter how little or much the signal exceeds that threshold requirement, the picture quality will not change."⁷ In addition, the current rules afford a broadcaster flexibility in deciding where to locate a station's digital facility so as best to serve the greatest number of viewers, including those in its community of license, and facilitate the costly task of the transition to digital television. Given the nascent state of the DTV transition, the Commission should not now alter its previous determination that the general DTV service contour is sufficient to ensure adequate picture quality to viewers in a station's community of license.

Television stations around the country have invested substantial time and resources, both human and financial, into the planning and construction of their DTV facilities. Many of these stations have undertaken detailed legal and engineering studies and made complex arrangements, including securing sites for new towers and space on existing towers, to determine the optimal transmission site for their DTV facilities. This

⁶ 47 C.F.R. Section 73.625.

⁷ See NPRM at para. 28.

investment has been undertaken in reliance on the Commission's existing DTV technical rules. Indeed, the Commission has acknowledged this fact in the NPRM wherein it states, "*in conformance with the rules we established*, several licensees have sought authority to move their DTV station to a more central location in their market or toward a larger market."⁸

At this late stage in the DTV transition it would be inequitable and extremely costly to broadcasters to impose a DTV city-grade contour requirement, as this would render useless the carefully engineered DTV plans established by many broadcasters around the country. The only fair and reasonable result is to leave unchanged the current requirement that a DTV station's community of license must be wholly encompassed by the station's general DTV signal contour without adding an additional principal community coverage requirement which, while costly to broadcasters, would not result in improved digital picture quality and would hamper broadcasters' flexibility to serve increased coverage areas.

B. The Commission Should Not Require a DTV Station That Replicates At Least 90% of Its NTSC Service Area and Population to Comply With Any New Principal Community Contour Requirement

Alternatively, if the Commission chooses to adopt a principal community contour requirement in order to address its concerns about the potential lack of replication by DTV stations,⁹ Lenfest proposes that the Commission exempt from such a requirement those DTV stations that comply with the Commission's replication objective.

⁸ See NPRM at para. 19 (emphasis added).

⁹ See NPRM at Section IV(A).

Specifically, a DTV station that is replicating at least 90% of its NTSC Grade B service area and population should be exempt from any principal community contour requirement that the Commission might adopt.

As stated in the NPRM, the Commission is concerned about “people within the NTSC service area but outside of the DTV service area” losing service.¹⁰ Any concerns that a relocated DTV station might cause such a loss of service to viewers would be obviated by a 90% replication requirement. Since the Commission has determined in the DTV facilities maximization context that, in the aggregate, 10% is an acceptable de minimis amount of interference, a 90% replication standard is a reasonable means of ensuring continued service to a station’s viewers while simultaneously providing the flexibility for a station to further its public interest mandate by providing new service to additional viewers.

C. Any Principal Community Signal Contour Requirement Should Not Be Effective Until the Actual End of the DTV Transition Period

In the event the Commission does adopt a DTV principal community contour requirement, such a requirement should not become effective until the actual end of the DTV transition period. This will give the Commission and the DTV industry the full benefit of the transition period to thoroughly comprehend the functionalities and characteristics of actual DTV operation and, based on that increased understanding, to determine whether a principal community coverage requirement is truly required. It is quite possible that by the end of the DTV transition, and the simultaneous analog sunset, technological and operational advancements may render such a requirement unnecessary.

¹⁰ See NPRM at para. 20.

Accordingly, the most equitable and logical time for any new DTV signal coverage requirement to become effective would be at the conclusion of the actual DTV transition period, be that on December 31, 2006 or at a later date if circumstances in a particular market so dictate.

III. CONCLUSION

The Commission should refrain from adopting a principal community signal contour requirement for DTV stations so as to maximize broadcasters' flexibility to provide a digital service to meet its audience's needs and desires. Such a late-stage modification of the Commission's long-standing DTV rules would be inequitable and costly. Alternatively, the Commission should exempt from any new principal community signal coverage requirement a DTV station able to demonstrate at least 90% replication of its NTSC Grade B service area and population. Finally, if the Commission does adopt a new principal community signal contour requirement, then the most equitable effective date for such a modification to the current DTV rules would be the actual end of the DTV transition period in a station's market.

Respectfully submitted,

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